

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

ANNE MARIE BAGBY,

Plaintiff,

3:10-CV-1581-PK

v.

OPINION AND  
ORDER

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

HERNANDEZ, District Judge:

Plaintiff Anne Marie Bagby brought this action seeking judicial review of a final decision by the Commissioner of Social Security denying her application for Title XVI supplemental security income disability benefits on December 30, 2010. On February 7, 2012, Judge Papak recommended that the Commissioner's decision be affirmed, and on April 3, 2012, I adopted Judge Papak's recommendation without modification. Effective April 12, 2012, Bagby appealed

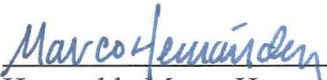
this court's decision to the Ninth Circuit.

Effective June 3, 2015, by and through a memorandum opinion (#28-1), the Ninth Circuit affirmed that decision in part and reversed it in part, and remanded Bagby's action to this court for further proceedings. The Ninth Circuit affirmed my finding that substantial evidence supported the decision of the administrative law judge ("ALJ") to discount the medical opinions of Dr. Richardson and Dr. McCarthy's November 2006 Global Assessment of Functioning score and my finding that the ALJ did not err with regard to third-party witness Pitt's statements. However, the Ninth Circuit agreed with Bagby on appeal that, notwithstanding the full credit the ALJ expressly afforded the medical opinions of Dr. Stuckey, the ALJ failed to incorporate Dr. Stuckey's finding that Bagby faced moderate limitations in her ability to "[r]espond appropriately to usual work situations and to changes in a routine work setting" in his assessment of Bagby's residual functional capacity ("RFC"). In consequence of that error, the Ninth Circuit concluded that the ALJ posed an incomplete hypothetical to the vocational expert, and therefore erred at the fifth step of the five-step evaluation process. The Ninth Circuit therefore remanded Bagby's action with instructions that the ALJ's assessment of Bagby's RFC incorporate all of Bagby's credible limitations. In light of its decision to remand, the Ninth Circuit expressly declined to address Bagby's assignments of error in the ALJ's determination of Bagby's own credibility and in the ALJ's reliance on the vocational expert's testimony, and indicated that the ALJ was free to reassess those issues on remand. The Ninth Circuit instructed this court to remand Bagby's action to the Commissioner for further proceedings consistent with its memorandum opinion.

Pursuant to the Ninth Circuit's mandate (#28) and memorandum opinion (#28-1), Bagby's action is hereby remanded to the Commissioner for further proceedings consistent with the

foredescribed instructions and with the discussion set forth in the Ninth Circuit's memorandum opinion.

Dated this 9 day of June, 2015.

  
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Honorable Marco Hernandez  
United States District Judge